

United States District Court
 Western District of Texas
 San Antonio Division

Joe Holcombe, et al.
 Plaintiffs,

v.

United States of America,
 Defendant.

No. SA-18-cv-00555-XR
 (consolidated cases)

**Defendant's Amended Deposition Counter Designation to the Testimony of
 Lisa King Smith, Ed.S., LPC**

Defendant submits the following amended counter designations of the testimony given by Lisa King Smith, Ed.S., LPC by deposition on February 25, 2021. The excerpted transcript reflecting these counter designations attached as Government Trial Exhibit GEX-272.

Defendant did not include in the designation the exhibit to the transcript.

<u>Plaintiffs'</u> <u>Designated</u> <u>testimony</u>	<u>Counter-</u> <u>Designation</u>	<u>Transcript</u>
4:7-17		
4:22-5:2		
5:6-9		
8:13-9:12		
10:8-20		
11:17-20		
13:12-15		
19:1-20:6		
20:13-16		
26:2-15		
26:19-27:14		
	31:10-33:10	<p>10. Q. There's a reference to her childhood with 11. regard to healthy boundaries. And this is in her 12. discussion on page AW000406 under the title of, "What 13. are your goals for counseling?" And actually, let's 14. just go through that paragraph. 15. The first statement or first sentence is, 16. "Get out of survival mode." 17. A. Mm-hmm. 18. Q. What did she mean by that? 19. A. Survival mode for her was more or less looking 20. toward the future and not making decisions just based on 21. the immediate crises. To try to plan better. To try to 22. have more goals. To feel more settled.</p>

		<p>23. Q. Okay. And the second sentence says, "Process 24. my long trauma list." What-all was included on that 25. trauma list?</p> <p>1. A. It had to do with her family of origin issues, 2. primarily. She had also mentioned that she had been in 3. an abusive relationship in the past, I believe, you 4. know. And then after that it was the trauma of her 5. grandparents. So it was just a lifelong trauma, it 6. seems, one after the other, for her.</p> <p>7. Q. The fourth sentence references, "Learn what 8. healthy boundaries and thought processes look like since 9. I never had an example of this as a child."</p> <p>10. A. Mm-hmm.</p> <p>11. Q. What healthy boundaries did she discuss with 12. you that she wanted to learn about?</p> <p>13. A. She had, you know, a habit of being a people 14. pleaser. She, you know, would -- had a hard time saying 15. "no" to people. She would allow people to mistreat her 16. and take advantage of her. And she just had a really 17. difficult time setting those types of personal 18. boundaries.</p> <p>19. Q. Okay. There is a reference, or you referenced 20. earlier, her mother. Did she describe her relationship 21. that she had with her mother at the time that she was 22. counseling with you?</p> <p>23. A. She had only -- she had not talked to her in 24. quite some time. She had mentioned that when she -- the 25. few times that she had talked to her it was very 1. distressing and brought up some anger.</p> <p>2. Q. Did she discuss any mental health issues that 3. her mother has or had?</p> <p>4. A. We talked about it. You know, I am not her 5. mother's therapist, but -- I don't know what her 6. diagnoses are. But it certainly sounded like she had a 7. number of mental health issues.</p> <p>8. Q. Did she discuss any past traumas with regard to 9. her biological brother?</p> <p>10. A. Yes. We talked a little bit about that.</p>
33:11-17		
36:7-20		
	36:21-23	<p>21. Q. Okay. And then you met with her -- it looks 22. like the next appointment might have been August 21st, 23. 2019. Is that correct?</p>
	39:13-40:7	<p>13. Q. Then the next sentence references "Patient 14. reported her mother was very abusive and self-centered."</p> <p>15. A. Mm-hmm.</p>

		<p>16. Q. What type of abuse did Kati suffer at her 17. mother's hands?</p> <p>18. A. Her mother was physically abusive. She was 19. verbally abusive. She was in and out of her life. She 20. wasn't a very consistent presence in her life. And when 21. she was present she was very adversarial.</p> <p>22. Q. Did she continue to have an adversarial 23. relationship with the mom –</p> <p>24. A. Yes.</p> <p>25. Q. -- at the time that she was counseling with 1. you?</p> <p>2. A. Yes.</p> <p>3. Q. And she describes an uncle. And the uncle you 4. referenced was also abusive to her as well?</p> <p>5. A. Yes.</p> <p>6. Q. Do you know which uncle this was?</p> <p>7. A. I don't remember.</p>
46:12-47:8		
52:22-53:10		
	55:21-57:23	<p>21. Q. Okay. So we will turn to the notes from 22. October 2nd, 2019. This is Bates stamped KW000415. And 23. at this point she appears calm and open. And you 24. indicated that she reported, "I feel like things are 25. being settled. I have been substitute teaching. And I 1. think I want to finish my degree in education so I can 2. teach elementary school."</p> <p>3. Tell me about that conversation about her 4. being settled and how things had been working for her at 5. that point.</p> <p>6. A. Um, I think she [inaudible]. We had been 7. [inaudible] with our therapy. [Inaudible]. 8. (Discussion off the record.)</p> <p>9. A. She had indicated that she was feeling a little 10. better. We had been, you know, working in therapy 11. pretty consistently at that point. She had gotten on 12. the medication for anxiety and depression. And by this 13. point it would hopefully have started to kind of maybe 14. work. You know, to do its work.</p> <p>15. And she -- you know, she had mentioned 16. before that she really wanted to go back to teaching, 17. and she wasn't sure if she was gonna be able to. She 18. wasn't sure if she was gonna be able to go back and do 19. that what she had done before. But, you know, 20. substitute teaching had given her kind of a little bit 21. of confidence. Felt like it was a good fit.</p> <p>22. Q. And at this point you've seen her now since</p>

		<p>23. early August. So it's about two months of weekly 24. sessions. How did you feel like she had progressed? 25. Um, if I recall, she – it seemed like if she 1. would continue therapy for the long haul, I mean, I felt 2. like she was making very good progress at that point. 3. Q. Was she putting in the work to make progress? 4. A. It appeared that she was. 5. Q. And what was that work that she was putting in? 6. What were those techniques? 7. A. Managing her thoughts. Turning -- because one 8. thing that we work on in CBT is taking negative thinking 9. patterns and turning them into neutral thinking 10. patterns. And that initially takes a lot of work. 11. And so she was starting to kind of see how 12. that was working for her, that what -- you know, the 13. negative thinking, how that had really led to a lot of 14. self-sabotage and how the neutral thinking was actually 15. helping her feel a little more at peace, able to make 16. better decisions. 17. Q. How was she self-sabotaging? 18. A. Just making small choices like not exercising. 19. Not -- you know, maybe going and grabbing fast food and 20. not eating healthy. Maybe overreacting to a situation 21. that didn't need it. Maybe shutting down. I mean, 22. just, those are some of the things that I recall being 23. issues that she struggled with from time to time.</p>
59:2-13		
	61:15-17	<p>15. Q. So you did not see her, to confirm, between 16. October 9th, 2019 and July 15th, 2020. 17. A. No.</p>
61:18-63:13		
	63:14-64:15	<p>14. Q. Did she discuss the trauma of prostitution and 15. the rape with you? 16. A. Yes. 17. Q. What did she say? 18. A. She said that -- let me see if I can remember 19. everything. That she had kind of established a little 20. bit of a rule for herself about how she would go about 21. meeting with clients. And in this particular 22. instance -- and I wish I could remember exactly why, but 23. she accepted a phone call from someone in the middle of 24. the night. And she said, "I knew I shouldn't have, you 25. know, done that, but I did anyway." 1. And she met this person. And they were at 2. an apartment complex. And he took her into an 3. abandoned -- it was some kind of an abandoned apartment.</p>

		<p>4. And she asked him some questions about, "Why isn't there 5. any furniture in here?" And things like that. And he 6. wouldn't let her go. 7. And then he pulled a gun on her and raped 8. her. And he made a comment -- and I don't recall 9. what -- exactly what it was, but something to the effect 10. of, he was trying to decide if she was gonna let her 11. leave or not. And she said, you know, he did let her 12. leave ultimately. And she went home. She took a 13. shower. She told her husband. And he just laid with 14. her in the bed and held her. And that's all I remember 15. her telling me, that -- that's all I know.</p>
	65:8-19	<p>8. Q. Okay. You said that the therapist and patient 9. worked on safety issues. What does that mean? 10. A. Well, feeling safe. I mean, she -- after this 11. event happened she -- it compounded the trauma. She's 12. got layers and layers of trauma. And so this was the 13. most immediate traumatic event. And she ultimately 14. just -- that's what happens with that type of trauma is, 15. there is this feeling of being unsafe. 16. And so we talked about that. And also 17. processed, if she was gonna continue to act as a 18. prostitute, how would she remain safe about it? You 19. know?</p>
	66:1-16	<p>1. Q. Okay. At this time, did Ms. Wall indicate that 2. she was still on medications -- 3. A. She did not -- 4. Q. -- from the psychiatrist? 5. A. She did not indicate. 6. Q. Okay. And do you remember asking? 7. A. I don't remember if I asked or not. 8. Q. Did you have any suspicions that she had 9. stopped taking her medications? 10. A. Yes. 11. Q. Okay. Did you suspect any other type of drug 12. use? 13. A. Possibly. 14. Q. And why would those suspicions come from? 15. A. Just really -- it was really more of a -- more 16. of an assumption. I -- you know.</p>
	67:11-25	<p>11. Q. Did the rape have any effect on how you decided 12. to proceed forward with her counseling? 13. A. Yeah. I mean, it would have had she continued 14. to see me. We -- it would have to be included, for 15. sure. 16. Q. And what did you do to address that issue?</p>

		<p>17. What plans did you make to address that issue as you 18. continued forward with her?</p> <p>19. A. Well, I had hoped if we had continued, that we 20. could work on decision-making. It appears that the 21. stress tolerance wasn't really working for her. The 22. choices -- you know, the decisions and choices that she 23. had made at that point needed to be addressed. And I 24. wanted to maybe explore how those decisions might be 25. related to her trauma.</p>
	70:2-16	<p>2. Q. Okay. What concerns do you have for someone 3. who suffers a new sexual trauma?</p> <p>4. A. I have concerns about self-harm. I have 5. concerns about declining, you know, mental status. 6. Declining, you know, functioning, basically. It can 7. really -- well, it complicates the trauma.</p> <p>8. Q. And –</p> <p>9. A. It can be re-triggering.</p> <p>10. Q. Re-triggering with regards to her past sexual 11. trauma?</p> <p>12. A. Yes.</p> <p>13. Q. Okay. Was that a concern for you with Kati, 14. was that the more recent trauma would aggravate or, you 15. know, re-trigger those past traumas?</p> <p>16. A. Yes. Yes.</p>
	71:5-7	<p>5. Q. Okay. And so we'll go to your progress note 6. from August 3rd, 2020, which is a couple of weeks later. 7. This is Bates stamped KW000418.</p>
	73:5-24	<p>5. Q. Was this your last appointment with Kati?</p> <p>6. A. I believe so. I'm pretty sure that was the 7. last one.</p> <p>8. Q. Did she seem open to coming back to you at that 9. session?</p> <p>10. A. She did, but she did not show to the next 11. appointment. And I haven't seen her.</p> <p>12. Q. Was there –</p> <p>13. A. I haven't seen her since.</p> <p>14. Q. So there was a subsequent appointment 15. scheduled. Correct?</p> <p>16. A. I believe so. I believe there may have been 17. one scheduled for a week or two later. I wouldn't have 18. ended it that way.</p> <p>19. Q. Okay. If I take you to -- looks like your 20. billing records, KW000420, there is a reference to an 21. August 18 -- sorry, August 19, 2020 session.</p> <p>22. A. Yeah.</p> <p>23. Q. It's a scheduled session.</p>

		24. A. That was that no-show. Yeah.
	77:6-10	6. Q. Okay. And you -- other than her employment and 7. timing issues, you don't know of any other explanation 8. for her gap in treatment between October 9th, 2019 and 9. July 15th, 2020. Correct? 10. A. No. I –
	77:16-17	16. A. I just said I don't know. You know, I don't 17. know at all what happened in between.
79:18-80:4		
80:11-22		
81:4-10		
81:14-16		
83:3-10		
83:18-25		
84:9-85:7		
86:6-17		
86:25-87:18		
87:23-88:17		
	88:18-23	18. Q. Okay. And absolutely, I know, we saw the 19. records that she also had other trauma happen to her. 20. A. Mm-hmm. 21. Q. While – during the treatment period you were 22. with her. Correct? 23. A. Yes.
88:24-92:17		
92:22-93:10		
93:14-95:2		

Respectfully submitted,

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